



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,597	10/09/2003	Joel R. Dufresne	58663US002	9772
32692	7590	02/13/2008	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			ALEXANDER, LYLE	
			ART UNIT	PAPER NUMBER
			1797	
			NOTIFICATION DATE	DELIVERY MODE
			02/13/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Art Unit: 1797

Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-30, drawn to an apparatus and method of making, classified in class 436, subclass 165.
- II. Claims 40-48, drawn to a method of manufacturing a device having a void, classified in class 428.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and I are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not perform the method of making the void. The subcombination has separate utility such as a light blocking and filtering device.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to

Art Unit: 1797

provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply

Art Unit: 1797

does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Newly submitted claims 40-48 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: See the above showing that the inventions are independent and distinct.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40-48 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Art Unit: 1797

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Harms et al. (USP 6,814,935).

In light of the 12/4/07 amendments, the Office has reconsidered the references below.

Harms et al. teach devices comprising processing arrays(20) interconnected by conduit(40). Side(16) has been read on the claimed "control layer". Sides(18,) have been read on the claimed "control" layer. Harms et al. '935 teach in column 15 lines 38-45 coating of layer (16) with a metal foil to control or block the light transmission and has been read on the claimed "control layer".

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilding et al. (USP 5,726,026).

Wilding teaches a device and method of manufacturing a device(10) comprising a cover sheet(29), a control layer(11), interconnecting conduits(12a,b and 24a,b) and separation zone(22). Figures 6a,b show at least two layers below the chambers which have been read on the claimed transmissive layer.

Response to Arguments

Applicant's arguments filed 12/4/07 have been fully considered but they are not persuasive.

Art Unit: 1797

Applicants' traverse the 35 USC 102(e) rejections on the basis these references fail to teach "a plurality of process chambers structures formed in the control layer" or "process chamber structures comprising a void formed through the first major surface and the second major surface of the control layer." The Office has clarified in the above rejections the plurality of process chamber is formed in the "control layer." Secondly, Harms et al. teach inlet ports(32) and vent ports(34) that go through the control layer to the second major surface and have been properly read on the pending claims.

Applicants' traverse the rejections over Wilding et al. on the basis this reference fails to teach the claimed "cover sheet". The Office has clarified this rejection above and maintains aforementioned "cover(29)" has been clarified in the above Office action as "cover sheet(29)." The Office maintains "cover sheet(29)" has been properly read on the instant claims.

Applicants state Wilding et al. do not teach the claimed "cover sheet and control layer are coextensive." The Office maintains the transmissive layers shown in figures(6a,b) are coextensive with the cover layer.

Applicants' state Wilding et al. do not teach "a conduit formed between the cover sheet and the control layer." The Office maintains Wilding et al. clearly teach in figure 1 the conduits in the control layer(11) and not the cover layer(29).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1797

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lyle A Alexander
Primary Examiner
Art Unit 1743

/Lyle A Alexander/

Primary Examiner, Art Unit 1797